

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 2, 4-9, and 11-14 are pending in the present application, Claims 1, 7-9, and 11 having been amended, Claims 12-14 having been added, and Claims 3 and 10 having been canceled without prejudice or disclaimer. Support for the amendments to Claims 1 and 7-9 is found, for example, in original Claim 3. New Claims 12-14 correspond to Claims 1, 7, and 11 without the means-plus-function language. Applicants respectfully submit that no new matter is added.

In the outstanding Office Action, the declaration was objected to; Claim 10 was rejected under 35 U.S.C. §101 as directed toward non-statutory subject matter; Claims 1-11 were provisionally rejected on the ground nonstatutory double patenting over Claims 1-8 of copending Application Serial No. 10/671,471; and Claims 1-11 were rejected under 35 U.S.C. §102(a) as anticipated by Gronemeyer et al. (U.S. Patent No. 6,363,359).

Applicants thank the Examiner for the courtesy of an interview extended to Applicants' representative on November 2, 2006. During the interview, differences between the present invention and the applied art, and the rejections noted in the outstanding Office Action were discussed. No agreement was reached pending the Examiner's further review when a response is filed. Arguments presented during the interview are reiterated below.

With respect to the objection to the declaration, Applicants respectfully traverse the objection. The declaration that was filed along with the application on October 29, 2003 sufficiently identifies specification the declaration is directed to. MPEP § 602(VI) states "The following combination of information supplied in an oath or declaration filed on the application filing date with a specification are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying

with the identification requirement of 37 CFR 1.63... (C) name of inventor(s), and the title of the invention which was on the specification as filed.” Applicants respectfully submit that the declaration of record satisfies these criteria and that no supplemental declaration is necessary. Applicants respectfully request that the objection the declaration be withdrawn.

With respect to the rejection of Claim 10 under 35 U.S.C. §101, this ground of rejection is moot in view of the cancellation of Claim 10.

With respect to the provisional double patenting rejection, Applicants respectfully request that the provisional double patenting rejection be held in abeyance until the conditions are ripe for a non-provisional double patenting rejection.

With respect to the rejection of Claim 3 as anticipated by Gronemeyer, the subject matter of which is incorporated into amended Claim 1, Applicants respectfully traverse the rejection. Amended Claim 1 recites, *inter alia*, “means for storing an update confirmation cycle for said installed software; means for judging whether or not, among said installed software, there exists software for which the presence of updates needs to be confirmed based on said update confirmation cycle.” Gronemeyer does not disclose or suggest these elements of amended Claim 1.

Gronemeyer discloses that a sentinel is responsible for inspecting the client computing device and determining needed goods or services based on the configuration of client computing device.<sup>1</sup> The sentinel creates a log of software and hardware and sends the log to a server, and in response the server responds with available sales and upgrade options for items identified in the log.<sup>2</sup>

However, Gronemeyer does not disclose or suggest that there is a means for judging in the electronic device (as opposed to the update supplying apparatus) that judges whether or

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<sup>1</sup> Gronemeyer, col. 2, lines 50-53.

<sup>2</sup> Gronemeyer, col. 7, lines 56-58.

not, among the installed software, there exists software for which the presence of updates needs to be confirmed based on the update confirmation cycle.


Furthermore, this element of amended Claim 1 does not equate to when the sentinel sends the log to the server. The outstanding Office Action takes the position that the creation of the log by the sentinel equates to the claimed judgment. However, the sending of the log occurs after the log is created. Thus, the creation of the log does not equate to making a judgment based on the update confirmation cycle.

In view of the above-noted distinctions, Applicants respectfully submit that Claim 1 (and Claims 2 and 4-6) patentably distinguish over Gronemeyer. Amended Claims 7-9 and 11 recite elements similar to those in amended Claim 1. Thus, Applicants respectfully submit that Claims 7-9 and 11-14 patentably distinguish over Gronemeyer, for at least the reasons stated for amended Claim 1.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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